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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. 77-1692

EDWARD RONWIN,

Petitioner,

vs.

THE SUPREME COURT OF
THE STATE OF ARIZONA,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA

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JURISDICTION

Respondent does not question the jurisdiction of this Court to issue a writ of certiorari to the Supreme Court of Arizona in an appropriate case under Section 1257(3) of Title 28 U.S.C.

However, because petitioner has failed to comply with Rule 23(1)(f), Rules of the Supreme Court of the United States, by failing to specify the manner

in which the federal questions sought to be reviewed were raised in the lower court, the method of raising them, and the court's rulings, and by failing to make specific references to the places in the record where such matters appear, petitioner has failed to show that any federal questions were timely and properly raised so as to give this court jurisdiction to review the lower court's judgment on writ of certiorari.

QUESTION PRESENTED

Did the Arizona Supreme Court afford petitioner due process of law as guaranteed by the Fourteenth Amendment to the Constitution of the United States in the processing of his application for admission to the practice of law in the State of Arizona?

STATUTES AND RULES INVOLVED

Rule 28(a) and the applicable portion of Rule 28(c), Rules of the Arizona Supreme Court, are set forth in Appendix A to this brief.

STATEMENT OF THE CASE

Petitioner's attempts to gain admission to the practice of law in the State of Arizona have resulted in several judicial proceedings, reference to which is necessary to understand the background of the current petition.

Rule 28(c), Rules of the Supreme Court of Arizona, sets forth the requirements to be met by applicants for admission to the State Bar of Arizona. The rule requires that a Committee on Character and Fitness ("Committee"), appointed by the Supreme Court of Arizona, recommend an applicant for admission to the State Bar of Arizona only if the Committee is satisfied that

the applicant is "mentally and physically able to engage in active and continuous practice of law."

Petitioner sat for and failed Arizona's February, 1974 bar examination. In July, 1974, petitioner was informed by the Committee that the Committee had been unable to find petitioner mentally and physically able to engage in active and continuous practice of law and would therefore not grant him permission to sit for the July, 1974 bar examination. On September 24, 1974, the Arizona Supreme Court ordered the formation of a Special Committee on Examinations and Admissions ("Special Committee"), to conduct a formal hearing pursuant to Rule 28(c)(XII)(D), Rules of the Arizona Supreme Court, for the sole purpose of determining whether petitioner was mentally able to engage in active and

continuous practice of law.

Following the completion of substantial discovery, a two-day formal hearing was held before the Special Committee on January 6 and 7, 1975. Petitioner was represented by counsel. During that formal hearing, the Special Committee heard the testimony of seventeen witnesses, including petitioner, and received twenty exhibits in evidence. Included in the exhibits was deposition testimony of four additional witnesses. The witnesses included academic associates, law school professors, fellow law school students of petitioner, practicing attorneys for whom petitioner had done legal research, two psychiatrists, and one clinical psychologist. Each exhibit offered by petitioner was admitted into evidence and the testimony of each witness presented by petitioner was received.

Petitioner was given the opportunity, through able counsel,[1] to confront and cross-examine all witnesses.

On January 21, 1975, the Special Committee issued its findings, on the basis of which it concluded that petitioner was not mentally able to engage in active and continuous practice of law.

On January 28, 1975, petitioner filed a Petition for Review with the Arizona Supreme Court, which is the body responsible for finally determining questions of admission. (See Rule 28(a), Appendix A.) On July 6, 1976, in an unanimous decision, the Arizona Supreme Court, after making an independent analysis of the record of the hearing, affirmed the Special

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[1]John P. Frank, Esq., a member of the bar of this Court and a former member of this Court's Advisory Committee on Civil Rules.

Committee's conclusion and denied petitioner's application to be admitted as a member of the State Bar or, in the alternative, to take the bar examination. Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976). A copy of that decision is attached to this brief as Appendix B. In January, 1977, petitioner filed in this Court a Petition for a Writ of Certiorari to the Supreme Court of Arizona seeking review of the decision in Application of Ronwin, supra. This Court declined to accept jurisdiction of that petition on February 28, 1977. Ronwin v. The Committee on Examinations and Admissions of the Supreme Court of Arizona, 430 U.S. 907 (1977).

While review of the decision in Application of Ronwin, supra, was pending, petitioner commenced two actions in the United States District

Court for the District of Arizona, both based upon alleged violations of the Civil Rights Act of 1866, 42 U.S.C. § 1981 et seq. The first, Ronwin v. Daughton, No. CIV. 76-872 PHX-WPC, was instituted on November 26, 1976 and named as defendants the members of the Special Committee, the Dean and Associate Dean of Arizona State University College of Law, both of whom had testified on behalf of petitioner at the Special Committee's hearing, counsel for the State Bar of Arizona during the hearing, a psychologist who testified and petitioner's own lawyer, claiming that they had all conspired to "orchestrate" a sham proceeding. The second action, Ronwin v. Segal, No. CIV. 76-924 PHX-WPC, was filed December 13, 1976 and named as defendants the members of Arizona's Committee on Character and Fitness, who had found they were unable

to recommend petitioner for admission to the Arizona Bar following his application of August 30, 1976.[2] Summary judgment was entered in favor of all defendants in both actions and review of those decisions is currently pending in the Ninth Circuit Court of Appeals.[3]

On October 10, 1977, petitioner filed his seventh application for admission to the State Bar of Arizona. The members of the Committee on

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[2]Rule 28 of the Rules of the Supreme Court of the State of Arizona was amended on November 3, 1975, effective November 8, 1975. The primary change was the creation of two committees, i.e., one Committee on Examinations and one Committee on Character and Fitness, whereas prior to the amendment the function of both of the new committees had been performed by the Committee on Examinations and Admissions.

[3]See Ronwin v. Daughton, appeal docketed, No. 76-872, 9th Cir., March 25, 1977; and Ronwin v. Segal, appeal docketed, No. 77-2567, 9th Cir., July 5, 1977.

Character and Fitness, all of whom were named defendants in pending litigation with petitioner, requested direction from the Supreme Court of Arizona as to the proper course to follow. In response to that request, the Arizona Supreme Court issued its Order of November 15, 1977, directing that all future applications by petitioner were to be forwarded to the Arizona Supreme Court. The Court further ruled that, because petitioner had made no showing of substantial change in his mental condition since the Court's decision in Application of Ronwin, supra,, his application to the State Bar of Arizona would be denied. (Appendix to Petition, pp. A-1 -- A-3.)

Petitioner then requested and was granted leave to file a Motion for Rehearing before the Arizona Supreme Court. (Petition, p. 4.) After considering the memorandum submitted and

hearing oral argument, on March 9, 1978, the Arizona Supreme Court denied petitioner's Motion for Rehearing. (Appendix to Petition, p. A-9.)

ARGUMENT

A. The Arizona Supreme Court did not deny petitioner due process of law.

The only issue in this action is extremely narrow, applies to one limited situation, and does not warrant review by this Court on certiorari.

By its decision of July 6, 1976 in Application of Ronwin, supra, the Arizona Supreme Court held that petitioner was not mentally able to engage in the active and continuous practice of law, as required by Rule 28(c)(IV), Rules of the Arizona Supreme Court. By Order of November 15, 1977, the Arizona Supreme Court held that petitioner would again be denied admission to the State Bar of Arizona

because he had failed to show any substantial change in his mental condition since the Court's earlier decision. Isolated from collateral issues alluded to by petitioner, the question presented is thus whether the Arizona Supreme Court denied petitioner due process of law by refusing to accord him an evidentiary hearing because he failed to make a prima facie showing that a substantial change had occurred in his mental condition since the Court's decision of July 6, 1976.[4]

The thrust of petitioner's argument, which is set forth with less clarity than one might desire, seems to be that the Arizona Supreme Court was required by the principles of the Fourteenth Amendment to conduct an

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[4]Indeed, it has been petitioner's contention throughout that there has been no change and that he has always been mentally able to practice law.

evidentiary hearing before denying petitioner admission to the State Bar of Arizona in November, 1977. Nothing in the Fourteenth Amendment or this Court's decisions interpreting that provision mandates such a conclusion.

This Court has emphasized on several occasions that due process of law does not require a hearing in every conceivable instance. Rather, because the very nature of due process requires flexible procedures, each set of circumstances must be examined to determine exactly "what process is due" in the particular context. Stanley v. Illinois, 405 U.S. 645 (1972). Only through an examination of particular circumstances can a determination be made as to what sort of hearing must be afforded. Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950).

The totality of circumstances

present in the instant case reveals careful attention by the Arizona Supreme Court to petitioner's right to be afforded an opportunity for an appropriate hearing. When the Arizona Supreme Court denied petitioner's Motion for Rehearing on the question of whether petitioner should be granted admission to the Arizona Bar, the Court had before it the written memorandum filed by petitioner in support of his motion. Petitioner was afforded an opportunity to present oral argument. Moreover, the Court considered not only petitioner's most recent application for admission to the bar, but also the entire record of the earlier proceedings. That record included the transcript of the two-day evidentiary hearing held before the Special Committee, upon which the Court's initial determination that petitioner was not mentally able to

engage in the practice of law had been made.

Equally important, the Court did not hold that petitioner would never be entitled to another evidentiary hearing. The Court simply required petitioner to establish that a substantial change had occurred in his mental condition since the Court's earlier ruling that petitioner's mental state was such that he should not be admitted to practice law in the State of Arizona.

The notion that a applicant for admission to practice law has the burden of establishing that he is of "good moral character" or "mentally able to practice law" is nothing new and, in fact, is a burden imposed by all states. Equally accepted is the principle that, once an applicant or practicing attorney has been found deficient in those qualities which a state requires of its

practitioners, the burden is placed upon that person to show a change in circumstances. See, e.g., Matter of Braverman, 549 F.2d 913 (4th Cir. 1976); In re Alker, 307 F.2d 881 (3d Cir.), cert. denied, 371 U.S. 923 (1962); Levenson v. Mills, 294 F.2d 397 (1st Cir. 1961), cert. denied, 368 U.S. 954 (1962). The principles of due process do not require, and practical considerations make impossible, the holding of a hearing which would simply revisit matters previously heard and considered by the Arizona Supreme Court. Only if petitioner can show some change in circumstances should that Court be required to convene another hearing.[5]

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[5]Petitioner apparently has concluded that the Iowa Supreme Court's Order of September 14, 1977 [Appendix to Petition, pp. A-4 -- A-8], denying a request to suspend petitioner from practice in Iowa, provides evidence of a change in his mental condition. However, that Order simply states that the

In refusing petitioner admission to the State Bar of Arizona, the State Court was simply exercising its recognized freedom to guage on a case-by-case basis the fitness of a particular applicant to practice law. In re Griffiths, 413 U.S. 717 (1973). States unquestionably retain authority to require high standards of proficiency, including "good moral character" or "mental ability," of those applicants for membership in state bar associations. As this Court recognized in Schware v. Board of Bar Examiners of the State of New Mexico, 353 U.S. 232 (1957),

> [t]o a wide and deep extent, the law depends upon the

(Footnote 5 cont'd.)

Arizona proceedings did not constitute an "adjudication of mental incapacity," the standard for suspending an attorney from practice in Iowa. Respondent concurs in Iowa's interpretation of its rule.

> disciplined standards of the profession and belief in the integrity of the courts. We cannot fail to accord such confidence to the state process, and we must attribute to its courts the exercise of a fair and not a biased judgment in passing upon the applications of those seeking entry into the profession. Id. at 249.

Unless a state's refusal to grant an applicant admission to its bar is based upon wholly arbitrary standards or upon considerations that offend the dictates of reason, such decisions must be left to the individual state courts.

> Especially in this realm, it is not our business to substitute our judgment for the State's judgment--for it is the State in all the panoply of its powers that is under review when the action of its Supreme Court is under review. Id. at 248.

B. Petitioner has defined no substantial federal question.

As was discussed above, petitioner has failed to identify when and how any

federal questions of which review is sought were raised in the Arizona Court. Assuming, however, that the questions were properly raised and identified, petitioner has made no showing that the issue presented is of substantial importance. No suggestion has been made that Arizona's procedure for determining questions of admission discriminates on the basis of an inherently suspect classification [In re Griffiths, supra]; improperly inquires into an applicant's views and beliefs [Baird v. State Bar of Arizona, 401 U.S. 1 (1971)]; denies admission because of an applicant's refusal to divulge information protected by the First Amendment [Application of Stolar, 401 U.S. 23 (1971)]; or applies invalid statutes and rules. [Law Students Civil Rights Research Council, Inc. v. Wadmond, 401 U.S. 154 (1971)].

The most that can be said for

petitioner's position is that he believes the hearing process afforded him produced an unfair result. Even if that were true, the fact that Arizona's rules pertaining to bar admission may result in incidental individual inequality does not render them offensive to the Fourteenth Amendment. Martin v. Walton, 368 U.S. 25 (1961).

Petitioner argues (Petition at 12-13) that the question presented is important because Arizona applies, in one form or another, a like standard of mental ability to other professions. He suggests that all of these regulations suffer from the same vice: a finding of mental inability may be made without a differential medical diagnosis of a mental disease. While we agree that a number of statutory grounds for occupational disqualification are framed in language similar to the one here

under scrutiny,[6] the mere fact that they do not mandate the uncontradicted testimony of a psychiatrist does not render them constitutionally defective. Courts commonly allow lay testimony concerning mental capacity on the issue of criminal responsibility. See, e.g., Mason v. United States, 402 F.2d 732 (8th Cir. 1968), cert. denied, 394 U.S. 950 (1969). Surely a finding of mental inability to pursue a profession ought not to require a stricter standard of proof.

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[6] Contrary to petitioner's appendix reference (A-16), the standard for physical therapists is quite precise: a declaration of insanity by a court of competent jurisdiction. A.R.S. § 32-2042(4).

C. Consideration of petitioner's alleged denial of equal protection of the law and of freedom of expression under the First Amendment is barred by the doctrine of res judicata.

Petitioner refers intermittently to claimed denials of his right to freedom of expression and to equal protection. Consideration of such issues is clearly barred by the decision in Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976), cert. denied, 430 U.S. 907 (1977).

In his previous petition for a writ of certiorari in Ronwin v. The Committee on Examinations and Admissions of the Supreme Court of the State of Arizona, supra, the primary "Question Presented" was defined as follows:

> 1. Does the "Doctrine of Personality Deficiencies" (or, "Personality Disorders") promulgated by the Supreme Court of Arizona chill

> Petitioner's rights under the First, Fifth and Fourteenth Amendments, U.S. Constitution, and is said doctrine so vague, ambiguous, indeterminate and afflicted with overbreath [sic] as to be unconstitutional? Further, can said Doctrine be constitutionally applied prospectively to bar Petitioner from admission to the Arizona Bar at any future time in his life as the Arizona Supreme Court has done?
> Petition for a Writ of Certiorari, Ronwin v. The Committee on Examinations and Admissions of the Supreme Court of the State of Arizona, No. 76-953, at 2.

In this action, petitioner has defined the "Question Presented" as follows:

> Are the criteria by which Respondent determines mental ability to practice law inconsistent with Petitioner's right to due process, equal protection of the law and to freedom of expression under the First, Fifth and Fourteenth Amendments to the United States Constitution?
> Petition, at 2.

This would appear to be a textbook case for the application of the doctrine of res judicata. Sea-Land Services, Inc. v. Gaudet, 414 U.S. 573 (1974).

Because petitioner improperly named the Committee on Examinations and Admissions of the Supreme Court of Arizona as respondent in his earlier petition, he may seek to avoid the bar of res judicata by claiming the same parties are not involved in this petition. But the identity of parties required for application of the doctrine of res judicata is not merely a matter of form, but one of substance, and the fact that the parties in two actions are not precisely identical is not necessarily fatal to the application of that doctrine. Sunshine Anthracite Coal Co. v. Adkins, 310 U.S. 381 (1940). Because the Arizona Supreme Court is the only body which can deny any person admission to the Arizona Bar, identity of parties is sufficient to evoke application of the doctrine.

Finally, petitioner's attempt to

relitigate his claimed denial of the protection of the Bill of Rights is barred by collateral estoppel. Ashe v. Swenson, 397 U.S. 436 (1970).

CONCLUSION

The petition for writ of certiorari should be denied.

Respectfully submitted,

Philip E. von Ammon

June, 1978

APPENDIX A

Rules 28(a) and 28(c) IV, Rules
Of the Supreme Court of Arizona

Rule 28. Examination and Admission

28(a) Committees on examinations and admissions; powers and duties. The examination and admission of applicants for membership in the State Bar of Arizona shall conform to this Rule. For such purposes two committees shall be constituted. One Committee shall be the Committee on Examinations. The other Committee shall consist of seven active members of the State Bar appointed by the Court upon the recommendation of the Board of Governors of the State Bar which shall recommend at least three members of the State Bar for each appointment to be made. Members of the two Committees shall serve for seven year terms. In the case of the Committee on Character and Fitness now being separately established the seven initial appointments shall be for terms of seven, six, five, four, three, two and one year respectively. Thereafter, upon the expiration of a member's term, the Court shall appoint a new member to serve for a term of seven years. As to each Committee, in the event of a resignation or inability of a committee member to serve, the Court shall appoint another person to serve the unexpired term. The Committee on Examinations shall examine applicants and advise this Court and the Committee on Character and Fitness of those who have passed the examination for admission to the State Bar of Arizona. The Committee on Character and Fitness shall recommend to this Court for admission to the State Bar of Arizona those individuals who,

having passed the examination for admission to the State Bar of Arizona, are deemed by the Committee to be qualified on the basis of character and fitness. The Court will then consider the recommendations and either grant or deny admission.

. . . .

28(c) Rules governing admission of applicants to the State Bar of Arizona.

. . . .

IV. APPLICANT REQUIREMENTS AND QUALIFICATIONS

On the basis of a properly completed application timely filed the applicant will be entitled to sit for the bar examination.

No applicant for admission to the State Bar of Arizona shall be recommended for admission by the Committee on Character and Fitness unless the Committee is satisfied:

1. That the applicant is or at the time of the examination will be over the age of twenty-one (21) years;

2. That he is of good moral character;

3. That he is mentally and physically able to engage in active and continuous practice of law;

4. That he is a graduate of a law school provisionally or fully approved by the American Bar Association at the time of

his graduation; provided that this requirement shall not apply to an applicant who has been actively engaged in the practice of law in some other state or states for at least five (5) years of the last seven (7) years prior to his application for admission to practice in Arizona.

5. That, if admitted to practice in any other state or states, he is in good standing in every such state.

The Committee on Character and Fitness may provide for early filing of an intention to seek admission to the State Bar of Arizona on the part of Arizona law students, after completion of their first year at the University of Arizona College of Law or Arizona State University College of Law, to enable expeditious inquiry into the character and fitness of the applicant and to facilitate the giving of advice and counsel on issues relating to character and fitness.

The Committee on Character and Fitness should endeavor to complete its inquiries on character and fitness so as to be in a position to recommend for or against a successful examinee's admission to the State Bar of Arizona no later than the time the results from the bar examination are available. In extraordinary cases more extended time for inquiry and formulation of a recommendation may be required.

APPENDIX B

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In Banc

IN THE MATTER OF APPLICATION OF EDWARD RONWIN TO BE ADMITTED AS A MEMBER OF THE STATE BAR OF ARIZONA	)	FILED July 6, 1976 Clifford H. Ward Clerk Supreme Court No. SB-52-2

APPLICATION FOR ADMISSION TO STATE BAR OF ARIZONA DENIED: PERMISSION TO TAKE BAR EXAMINATION DENIED

GORDON, Justice:

The applicant, Edward Ronwin, filed this petition for review after a Special Committee on Examinations and Admissions appointed by this Court refused to recommend him for admission to the State Bar of Arizona on the ground that he "is not mentally able to engage in the active and continuous practice of the law."

Ronwin graduated from the Arizona State University College of Law in January of 1974. He took and failed the bar examination administered the following month. A petition for review of the grading of the examination papers filed with the Committee on Examinations and Admissions was denied. A similar petition subsequently filed in this

Court was also denied.

On July 22, 1974, eight days before he was to retake the exam, the Committee on Examinations and Admissions informed Ronwin that he had not qualified for permission to take the test "in that the Committee is unable to make the requisite finding that you are mentally and physically able to engage in [the] active and continuous practice of law." A petition for a Writ of Special Action was filed by the applicant with this Court the next day. We conducted a hearing and declined to take jurisdiction of the matter on July 30th.

On September 24, 1974, an order was entered by this Court appointing a Special Committee to conduct a formal hearing under Rule 28(c) XII D of the Rules of the Supreme Court for the sole purpose of determining whether Ronwin was mentally able to engage in the active and continuous practice of law. Following substantial discovery the hearing was held on January 6 and 7, 1975. On January 21st the seven member Committee issued the following findings:

> "[T]he applicant suffers from an established personality disorder of a character and pattern which will persist in the event the applicant is admitted to the practice of law which
>
> "(a) Causes him to be unreasonably suspicious that bad motives and intentions activate persons with whom he comes into contact and to unreasonably imagine that he is the object of unfair persecution by such persons and to act upon such imagined wrongs as if in fact sustained by known facts;

"(b) Causes him to make irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions which he knows or reasonably should know are without any factual basis or support;

"(c) Causes him to bring and pursue with great persistence groundless claims in court proceedings and otherwise even though he knows or should reasonably know such claims to be groundless, and that thereby others will be subjected to needless expense and concerns."

The Committee concluded that "because of this personality disorder applicant would probably be unable to properly represent and serve the interests of his clients * * * [and] will probably * * * bring and prosecute groundless claims and subject clients, parties, the Court and adversary counsel to groundless charges of misconduct and impropriety if his view of the merits of the claims he presented should be vigorously opposed and be found to be without merit by the Court."

Ronwin filed a Petition for Review of the Committee's findings in this Court on January 28, 1975, placing the case in its present posture. The applicant's subsequent motion seeking an order admitting him to the Bar or, in the alternative, permitting him to take the examination pending a determination of his petition for review was denied.

The practice of law is not a privilege but a right, conditioned solely upon the requirement that a person have the necessary mental, physical and moral

qualifications. Application of Klahr, 102 Ariz. 429, 433 P.2d 977 (1967); Application of Burke, 87 Ariz. 336, 351 P.2d 169 (1960). This right "is neither greater nor less than the right to engage in other occupations, businesses or trades, for the right to seek and retain employment is shared by all equally and to be equal must be upon the same conditions." Application of Levine, 97 Ariz. 88, 397 P.2d 205 (1964). In Arizona, as a prerequisite to the admission to practice an applicant has the burden of establishing as required by Rule 28(c) IV (3) of the Rules of the Supreme Court that he is "mentally * * * able to engage in active and continuous practice of law." See Application of Courtney, 83 Ariz. 231, 319 P.2d 991 (1957). If the Committee believed in this case that there was doubt as to Ronwin's mental qualifications "its plain duty was to refuse to certify his name to this Court for admission, for the ultimate responsibility for the admittance to the practice of law lies in the members of the Court." Application of Levine, supra. See Application of Walker, 112 Ariz. 134, 539 P.2d 891 (1975). The Committee's task is often a difficult one as some of the concepts embodied in the Rules escape definition in the abstract. Because of this a petition for review concerning such a matter "must be judged on its own merits, and an ad hoc determination in each instance must be made by the court." Application of Klahr, supra.

After a careful review of the record we have concluded that Ronwin has failed to demonstrate that he is mentally able to engage in the active and continuous

practice of law. To survey in this opinion the allegations or criticisms made by various witnesses or the psychiatric and psychological testimony would unnecessarily inject comment on the character or reputation of persons other than the individual who is the focus of this case and would serve to heighten the extreme emotion with which the applicant and others view several of the incidents which were highlighted at the committee hearings. It would also discourage in the future the sort of candid and personal testimony which many people are naturally reluctant to give but which is necessary in order to made a competent evaluation of an applicant's qualifications.

In summary, there is significant expert testimony in the record to indicate that Ronwin has a "paranoid personality" which is characterized by hypersensitivity, rigidity, unwarranted suspicion, excessive self-importance and a tendency to blame others and ascribe evil motives to them. The ominous ramifications of his personality disorder can be seen in the testimony of two professors which indicates that on different occasions he became enraged during discussions of academic matters and made serious threats of physical violence toward certain individuals and, in two cases, their wives. The record reveals a continuing inability by the applicant to maintain normal interpersonal relationships with sharp conflict rather than cooperation a common result. This situation is particularly aggravated where Ronwin is the subject of criticism or views himself as the victim of an imagined or real injustice. While he may excel in other endeavors,

he appears mentally unable to reasonably deal with the type of social interaction involved in dealing with clients, other members of the Bar and the public.

We believe that it is imperative that the term "mentally * * * able to engage in active and continuous practice of law" be construed to exclude persons whose long-standing personality traits indicate an obvious inability to get along with authority figures under situations of minor stress and conflict, whether or not these personality deficiencies rise to the level of medically recognized and categorized mental disorders.

The applicant's "irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions" referred to in ground "(b)" were mainly directed at administration officials at Arizona State University and appear to have resulted from an honest although probably misguided opinion of who was reponsible for harassment he endured while a law student.[1] We must be

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1. Graffiti such as "Rabbi Ronwin", "Ronwin is a Jew", "Jewish Dining Room" (on the bathroom stall) and other ethnic slurs were written on walls and notices at the law school. There is no indication in the record whether Ronwin is Jewish. The applicant's hypersensitivity and aggressiveness aggravated the normal repugnance an individual would feel as the brunt of such remarks. In a letter to the President of the

cautious not to punish an individual for utterances which fall within the protections of the First and Fourteenth Amendments. See Pickering v. Board of Education, 391 U.S. 563, 88 S.Ct. 1731,

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University, Ronwin accused the dean of the law school of expressing an "attitude of malice" toward him as demonstrated by his failure to stop the graffiti and stated "[t]he activities of [the] Dean * * * sum to an astonishing and deliberate nonfeasance and malfeasance and were directly responsible for both my troubles at the school, which continued virtually unabated during my entire association, and for much of my current problems with the Bar." Other critical comments in the letter were directed toward a resident professor, two visiting professors and an acting dean of the law school during one semester that the permanent dean was on a sabbatical. Ronwin accused the acting dean of deliberately soliciting false memoranda containing derogatory comments concerning the applicant and of bringing "the memoranda to the Committee's attention with the object of destroying me or my chances to become a member of the Bar because of the boundless malice with which he operates * * *." In connection with a theft from his locker, the applicant stated the acting dean "used his office to protect a felon and effectively halt a criminal investigation because of that hatred [for me]." Ronwin demanded that both the acting dean and a professor be dismissed from the faculty.

20 L.Ed.2d 811 (1968); New York Times Company v. Sullivan, 376 U.S 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964); Application of Levine supra. However, the relationship of these accusations and charges to his feelings of persecution as set forth in paragraph (a) of the Committee's Findings is apparent to anyone who reads the full transcript of the proceedings in this matter.

We do not agree with ground "(c)" of the Committee's Findings, that Ronwin has in the past brought "with great persistence groundless claims in court proceedings and otherwise." We hesitate to fault the applicant for resorting to the legal system to express his grievances where, as in this case, there is credible evidence that the actions were brought with a good faith belief in their merit.[2]

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2. At the hearing the applicant defended the filing of two lawsuits. The first was filed in 1969 with the California Fair Employment Practice Commission while the applicant was a lecturer at Fresno State College. Ronwin alleged he was a victim of reverse discrimination in hiring practices at the institution. The matter was eventually terminated when a default judgment was entered against the applicant. The second lawsuit was filed in 1972 against seven fellow students Ronwin felt were responsible for the graffiti and verbal harassment he was receiving at the law school. At the hearing the applicant gave a reason why each defendant was included in the suit.

Having agreed with the Special Committee after our independent analysis of the record that Ronwin is not mentally able under Rule 28(c) IV of the Rules of the Supreme Court to engage in the active and continuous practice of law, it is ordered that his application to be admitted as a member of the State Bar or, in the alternative, to take the bar examination, is denied.

STRUCKMEYER, V. C. J., HAYS, and WILLIAM A. HOLOHAN, JJ., and HENRY S. STEVENS, Judge, Retired concurring.

Note: The Honorable JAMES DUKE CAMERON, Chief Justice, did not participate in the determination of this matter and the Honorable HENRY S. STEVENS, now a retired Judge of the Court of Appeals, was called to sit in this matter.